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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,866	08/18/2000	Charles E. Bernasconi	P/3639-21	7547

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EXAMINER

BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/641,866

Applicant(s)

BERNASCONI ET AL.

Examiner

Carolyn M. Bleck

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17,18,23-28,30-32,36,37,42-44,49-51,53 and 58-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17,18,23-28,30-32,36,37,42-44,49-51,53 and 58-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 27 June 2005. Claims 17-18, 23-28, 30-32, 36, 37, 42-43, 44, 49-50, 51, 53, 58, 59, and 60-83 are pending. Claims 17, 25, 26, 37, 44, 51, 58, 61, 63, 65, 67, 69, and 71 have been amended. Claims 72-83 are newly added.

Specification

2. The amendment filed 27 June 2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The newly added recitations of "the designation of an open position and the designation of a preferred individual employee to fill the position are both received from an employee who usually fills the position in a single communication session," "if the preferred individual employee does not accept the open position by a deadline notifying other employees from the database of the open position," "the web page also presents information to the preferred employee that the employee is preferred," "if none of the preferred employees accepts the position by a deadline, the web page notification system proceeds to notify at least one other employee having a record in the database with qualifications that meet the qualifications of the position," and "wherein the

Art Unit: 3626

preference message is received from an employee who usually fills the position” within **claims 72-83** appear to constitute new matter. The newly added recitations of “receiving a request that certain one or more individuals be excluded from being offered the position” within **claims 17 and 26** appear to constitute new matter. The newly added recitations of “receiving a designation of an open position and a designation of a preferred individual employee that is in the database to fill the open position” within **claims 37, 44, 51, and 58** appears to constitute new matter. In particular, Applicant does not point to, nor was the Examiner able to find any support these newly added features within the specification as originally filed. As such, Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. Claims 17-18, 23-28, 30-32, 36, 37, 42-43, 44, 49-50, 51, 53, 58, 59, and 60-83 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention and for the reasons set forth in the objection to the specification above.

Independent claims 17, 26, 37, 44, 51, and 58 as well as dependent claims 72-83 recite limitations that are new matter, as discussed above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-18, 23-28, and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914) and Van Wyngarden (6,038,597), for substantially the same reasons given in the previous Office Action (15 June 2005), and further in view of Williams (6,873,964).

(A) Claims 17 and 26 have been amended to recite "with provision for individual rejection," "receiving a request that certain one or more individuals be excluded from being offered the position," and the employees that are notified being those "not specified as excluded."

Mitsuoka and Van Wyngarden do not expressly disclose these newly added features. William discloses a feature of updating the offer status for each candidate, wherein if the candidate is not offered a position the status is updated to reflect that an offer has not been made on the database (Fig. 11, col. 7 lines 55-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Williams within the method and system taught collectively by Mitsuoka and Van Wyngarden with the motivation of reducing the

Art Unit: 3626

time to screen candidates by indicating to other areas that are hiring with a business that this candidate has or has not been offered a job (Williams; col. 1 lines 32-54).

As per the recitation of "not specified as excluded," it is respectfully submitted that Mitsuoka's method and system only notify those employees that meet the qualifications, such as their schedule is free, and does not notify those that are excluded based on their schedule (col. 10 lines 1-50).

The remaining features of claims 17 and 26 are rejected for the same reasons given in the previous Office Action (15 June 2005), and incorporated herein.

(B) Claims 18, 23-25, 27-28, and 32 are rejected for the same reasons given in the previous Office Action (15 June 2005), and incorporated herein.

6. Claims 30-31 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,446,914), Van Wyngarden (6,038,597), and Thompson et al. (6,334,133) as applied to claim 26, 37, and 44, for substantially the same reasons given in the previous Office Action (15 June 2005), and further in view of Williams (6,873,964).

(A) Claims 30-31 and 36 have not been amended, and are therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

7. Claims 37, 44, 51, 53, 58, and 72-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914) and Van Wyngarden (6,038,597),

Art Unit: 3626

for substantially the same reasons given in the previous Office Action (15 June 2005), and further in view of King (Kristen, King, EBR Schools install system to track substitute teachers, Advocate, Baton Rouge, LA, April 27, 1998, pg. 2).

(A) Claims 37 and 44 have been amended to recite "receiving a designation" of an open position and "a designation of a preferred employee" that is in the database to fill the open position.

Mitsuoka discloses determining by a contractor candidate determination portion contractor candidates who can become contractors for the job offer based on the information concerning the ability to process a job of each contractor stored in the contractor information storage portion when receiving a job offer request from the job-provider client and calculating the suitability of the contractor candidates based upon the stored ability information by a suitability calculator, wherein the determining step is performed by retrieving information from the database and offering the job only to those contractors that qualify for the job (col. 10 lines 2-50, col. 19 line 42 to col. 20 line 43).

Mitsuoka and Van Wyngarden do not expressly disclose designating a preferred employee.

King discloses a system for teachers to designate which days substitute teachers are needed, wherein teachers can request a particular substitute in the system, and wherein the system will then call that person every hour until it gets an answer (pg. 1, par. 5-8, pg. 2 par. 13-14).

Art Unit: 3626

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of King within the method and system taught collectively by Mitsuoka and Van Wyngarden with the motivation of providing a substitute that has experience in the teacher's grade level or subject area (pg. 1 par. 8).

The remaining features of claims 37, 42, 44, and 49 are rejected for the same reasons given in the previous Office Action (15 June 2005), and incorporated herein.

(B) Claims 51 and 58 have been amended to recite "allowing a designation of a preferred employee from the database to fill the vacant position," in response to receiving a vacant position "and a designation of a preferred employee from the database to fill the vacant position," and "confirming that the employees has qualifications."

Mitsuoka discloses determining by a contractor candidate determination portion contractor candidates who can become contractors for the job offer based on the information concerning the ability to process a job of each contractor stored in the contractor information storage portion when receiving a job offer request from the job-provider client and calculating the suitability of the contractor candidates based upon the stored ability information by a suitability calculator (reads on confirming employees qualifications", wherein the determining step is performed by retrieving information from the database and offering the job only to those contractors that qualify for the job (col. 10 lines 2-50, col. 19 line 42 to col. 20 line 43).

Mitsuoka and Van Wyngarden do not expressly disclose designating a preferred employee.

King discloses a system for teachers to designate which days substitute teachers are needed, wherein teachers can request a particular substitute in the system, and wherein the system will then call that person every hour until it gets an answer (pg. 1, par. 5-8, pg. 2 par. 13-14).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of King within the method and system taught collectively by Mitsuoka and Van Wyngarden with the motivation of providing a substitute that has experience in the teacher's grade level or subject area (pg. 1 par. 8).

The remaining features of claims 51 and 58-59 are rejected for the same reasons given in the previous Office Action (15 June 2005), and incorporated herein.

(C) As per claim 53, Mitsuoka discloses forwarding a job to multiple contractors (col. 10 lines 2-10).

(D) As per claims 72, 75, 78, and 82, King discloses accessing the system, offering a registration number to say which days substitutes are needed (reads on "designation of an open position") and requesting a particular substitute (par. 3-8). The motivation for including King with the combination of Mitsuoka and Van Wyngarden is given above in the rejection of claims 37, 44, 51, and 58, and incorporated herein.

Art Unit: 3626

(E) As per claims 73, 76, 79, and 81, King discloses that if the particular requested substitute is unavailable, the system searches for other substitutes with experience in the teacher's grade level or subject area, then calls them until a substitute is found (par. 3-8). As per the recitation of a "deadline," it is respectfully submitted that if the preferred substitute answers the request, this point in time is considered the deadline, because the preferred employee must give an answer at this point (par. 3-8).

(F) As per claims 74, 77, and 80, Mitsuoka discloses a job offer notification only being sent to those select contractors who can actually contract the job via a message. It is respectfully submitted that this message represents an indication to the employee that they are the preferred employee (i.e., they are the employee who can actually contract for the job based on their qualifications).

(G) As per claim 83, King discloses the teacher requesting the substitute that they would prefer (par. 3-8).

8. Claims 43 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,446,914), Van Wyngarden (6,038,597), and Thompson et al. (6,334,133) as applied to claim 26, 37, and 44, for substantially the same reasons given in the previous Office Action (15 June 2005), and further in view of King (Kristen, King, EBR Schools install system to track substitute teachers, Advocate, Baton Rouge, LA, April 27, 1998, pg. 2).

(A) Claims 43 and 50 have not been amended, and are therefore rejected for the same reasons given in the previous Office Action (15 June 2005), and incorporated herein.

9. Claims 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914), Van Wyngarden (6,038,597), and Williams et al. (6,873,964) as applied to claims 17 and 26, and further in view of Thompson et al. (6,334,133).

(A) As per claims 60-63, Mitsuoka, Van Wyngarden, and Williams do not expressly disclose a web page displaying information specific to an employee that has previously filled the position, wherein the information specific to an employee was entered to the database by the employee and comprises a lesson plan.

Thompson discloses a website and database for entering and displaying the teacher's name, certifications of the teacher, a list of teachers preferred to substitute for the teacher, or alternatively a list of criteria for selecting an appropriate substitute for the teacher, and instructions for the substitute teacher from the teacher (col. 6 lines 45-60, col. 7 line 65 to col. 8 line 63), wherein the teacher is able to enter information.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Thompson within the method and system of Mitsuoka, Van Wyngarden, and Williams with the motivation of reducing the

Art Unit: 3626

number of disruptions in a teacher's classroom by providing instructions for the substitute teacher (Thompson, col. 2 line 52 to col. 3 line 5).

10. Claims 64-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914), Van Wyngarden (6,038,597), and King (Kristen, King, EBR Schools install system to track substitute teachers, Advocate, Baton Rouge, LA, April 27, 1998, pg. 2) as applied to claims 37, 44, 51, and 58, and further in view of Thompson et al. (6,334,133).

(A) As per claims 64-71, Mitsuoka, Van Wyngarden, and King do not expressly disclose a web page displaying information specific to an employee that has previously filled the position, wherein the information specific to an employee was entered to the database by the employee and comprises a lesson plan.

Thompson discloses a website and database for entering and displaying the teacher's name, certifications of the teacher, a list of teachers preferred to substitute for the teacher, or alternatively a list of criteria for selecting an appropriate substitute for the teacher, and instructions for the substitute teacher from the teacher (col. 6 lines 45-60, col. 7 line 65 to col. 8 line 63), wherein the teacher is able to enter information.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Thompson within the method and system of Mitsuoka, Van Wyngarden, and King with the motivation of reducing the

number of disruptions in a teacher's classroom by providing instructions for the substitute teacher (Thompson, col. 2 line 52 to col. 3 line 5).

Response to Arguments

11. Applicant's arguments with respect to claims 17, 26, 37, and 44 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments filed 27 June 2005 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below.

(A) At page 11 of the response filed 27 June 2005, Applicant argues that Mitsuoka does not teach pass codes. It is noted that Applicant relied upon Van Wyngarden for this feature (see rejection of claim 17 in Office Action dated 15 June 2005).

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3626

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3626

15. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231


Or faxed to:

(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

CB

September 16, 2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600